

Central Administrative Tribunal
Principal Bench: New Delhi

MA No.3029/2015

In

OA No.3300/2012

Reserved on: 22.04.2016

Pronounced on: 31.05.2016

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)

Ms. Tanuj

Versus

Election Commission of India & Ors.

Presence: Sh. Yogesh Sharma, counsel for applicant.
None for respondents.

O R D E R

By Hon'ble Dr. B.K. Sinha, Member (A):

The instant MA has been filed by the applicant in OA No.3300/2012 under Rule 24 of the CAT (Procedure) Rules, 1987 for clarification and/or modification of the Tribunal's common order dated 28.01.2015 vide which OA Nos. 1610/2013 and OA No.3300/2012 were disposed of with the following directions:-

"13. In view of the above, we have no option but to decide the instant OA in the following terms:-

- (i) Impugned order/Memorandum dated 27.10.2010 and OM dated 26.12.201 are quashed and set aside;*
- (ii) Respondent nos. 1 & 2 are directed to fix the seniority of the applicants in accordance with the ratio laid down by the Hon'ble Supreme Court in **N.R. Parmar's** case.*

- (iii) *The seniority of the private respondents are to be fixed from the date of their regular appointment with the regular vacancies arising in their quota and not on the basis of their appointment on temporary posts which stood ultimately abolished.*
- (iv) *There shall be no order as to costs.”*

2. The learned counsel for the applicant would contend that the above directions are only in respect of the prayers in OA No.1610/2013, which are not applicable to the OA No.3300/2012 as prayers of the applicant in this case are entirely different from the former OA. It was also submitted that in view of the directions it is also not clear as to whether the prayers of the applicant in OA No.3300/2012 have been accepted or rejected. The learned counsel for the applicant further submits that the directions have been given on the basis of ratio laid down by the Hon'ble Supreme Court in *Union of India & Others V/s. N.R. Parmar & Others* [JT 2012 (12) (SC) 99] whereas the afore decision is not applicable to the case in hand. Hence, the instant MA has been filed for clarification/modification of the Tribunal's order dated 28.01.2015.

3. From perusal of the record, it is revealed that the respondents, despite service of notice, neither chose to file their counter nor represented through an advocate to address oral arguments in the matter.

4. It is noted that the instant application has been filed under the provisions of Rule 24 of CAT (Procedure) Rules which, for the sake of clarity, is reproduced as under:-

“24. Order and directions in certain cases. - The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.”

5. Here, the contention of the applicant being that his case is different from the lead case i.e. OA No.1610/2013 and, therefore, needs to be decided separately, if conceded, will amount to modification of the order whereas the scope of the Miscellaneous Application is for facilitating implementation of the order and not for its modification. This power is vested with the Tribunal under Section 22(1)(f) of the Administrative Tribunals Act, 1985 which provides that the Courts/Tribunal can modify, alter or recall its own order. However, an application has to be filed under this rule for review.

6. In view of the above position, the instant MA stands dismissed. However, the applicants are at liberty to file review application under the appropriate provisions of law, if they so desire.

(Dr. B.K. Sinha)
Member (A)

(V.Ajay Kumar)
Member (J)